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PATENT

### DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

1. My residence, post office address, and citizenship are as stated below next to my name;
2. I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention, design or discovery entitled: "NETWORK BASED FITNESS SYSTEM"

the specification of which

is attached hereto

or

was filed on February 8, 2001 as United States Application  
Serial No.: 09/779,798

3. I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above;
4. I acknowledge the duty to disclose to the Office all information known to me to be material to the patentability of this application as defined by Title 37, Code of Federal Regulations, § 1.56;
5. I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

"NONE"

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

**\*NONE\***

6. I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below or 365(c) of any PCT International Application designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application(s) or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of any prior application(s) and the national or PCT International filing date of this application:

**\*NONE\***

7. I hereby appoint:

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of the firm of GARDERE WYNNE SEWELL LLP, my attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith, and to file and prosecute any international patent application filed thereon before any international authorities under the Patent Cooperation Treaty.

Send correspondence to:

Sanford E. Warren, Jr., Esq.  
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Attorney Docket No. 124023-1000

8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full name of inventor: Don Spyker

Inventor's Signature: Don Spyker

Date: 5/15/01

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